

FIRST REGULAR SESSION

SENATE BILL NO. 359

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODMAN.

Read 1st time January 24, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1683S.011

AN ACT

To repeal section 455.040, RSMo, and to enact in lieu thereof one new section relating to adult abuse orders.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 455.040, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 455.040, to read as follows:

455.040. 1. Not later than fifteen days after the filing of a petition
2 pursuant to sections 455.010 to 455.085 a hearing shall be held unless the court
3 deems, for good cause shown, that a continuance should be granted. At the
4 hearing, if the petitioner has proved the allegation of abuse or stalking by a
5 preponderance of the evidence, the court shall issue a full order of protection for
6 a period of time the court deems appropriate, except that the protective order
7 shall be valid for at least one hundred eighty days and not more than one
8 year. Upon motion by the petitioner, and after a hearing by the court, the full
9 order of protection may be renewed for a period of time the court deems
10 appropriate, except that the protective order shall be valid for at least one
11 hundred eighty days and not more than one year from the expiration date of the
12 originally issued full order of protection. If for good cause a hearing cannot be
13 held on the motion to renew the full order of protection prior to the expiration
14 date of the originally issued full order of protection, an ex parte order of
15 protection may be issued until a hearing is held on the motion. Upon motion by
16 the petitioner, and after a hearing by the court, the second full order of protection
17 may be renewed for an additional period of time the court deems appropriate,
18 except that the protective order shall be valid for at least one hundred eighty
19 days and not more than one year. For purposes of this subsection, a finding by
20 the court of a subsequent act of abuse is not required for a renewal order of

21 protection.

22 2. The court shall cause a copy of the petition and notice of the date set
23 for the hearing on such petition and any ex parte order of protection to be served
24 upon the respondent as provided by law or by any sheriff or police officer at least
25 three days prior to such hearing. Such notice shall be served at the earliest time,
26 and service of such notice shall take priority over service in other actions, except
27 those of a similar emergency nature. The court shall cause a copy of any full
28 order of protection to be served upon or mailed by certified mail to the respondent
29 at the respondent's last known address. Failure to serve or mail a copy of the full
30 order of protection to the respondent shall not affect the validity or enforceability
31 of a full order of protection.

32 3. A copy of any order of protection granted pursuant to sections 455.010
33 to 455.085 shall be issued to the petitioner and to the local law enforcement
34 agency in the jurisdiction where the petitioner resides. The clerk shall also issue
35 a copy of any order of protection to the local law enforcement agency responsible
36 for maintaining the Missouri uniform law enforcement system or any other
37 comparable law enforcement system the same day the order is granted. The law
38 enforcement agency responsible for maintaining MULES shall enter information
39 contained in the order for purposes of verification within twenty-four hours from
40 the time the order is granted. A notice of expiration or of termination of any
41 order of protection shall be issued to the local law enforcement agency and to the
42 law enforcement agency responsible for maintaining MULES or any other
43 comparable law enforcement system. The law enforcement agency responsible for
44 maintaining the applicable law enforcement system shall enter such information
45 in the system. The information contained in an order of protection may be
46 entered in the Missouri uniform law enforcement system or comparable law
47 enforcement system using a direct automated data transfer from the court
48 automated system to the law enforcement system.

49 4. **If, at the fifteen-day hearing after the issuance of the ex parte**
50 **order, the respondent demonstrates by sufficient facts to the court that**
51 **the petitioner made misrepresentations about material facts either at**
52 **the hearing or in the verified petition filed under section 455.020, the**
53 **court shall vacate the ex parte order, shall make a finding of fraud**
54 **upon the court, shall sanction the petitioner an amount deemed just**
55 **and fair by the court, and within fifteen days of the court so finding,**
56 **shall hold a hearing on the damages, if any, caused to the**

57 **respondent. Under this section, the respondent may be awarded actual**
58 **and punitive damages, reasonable attorney's fees, and costs. For**
59 **purposes of this subsection, a fact is material, regardless of its**
60 **admissibility under rules of evidence, if it could substantially affect, or**
61 **did substantially affect, the course or outcome of the cause, matter, or**
62 **proceeding.**

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Unofficial

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